

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Application of:

Case No. 1D 2008 66062

BRYAN DALL

**Order Granting Initial Probationary
License as a Physical Therapist
Assistant**

Applicant for a Physical Therapist Assistant
License

Bryan Dall (“applicant”) filed an application for physical therapist assistant licensure to the Physical Therapy Board of California (the Board).

FINDINGS

- 1) Bryan Dall is a graduate of the physical therapist assistant program at Professional Skills Institute, Toledo, Ohio.
- 2) Mr. Dall filed his physical therapist assistant application in the State of California on or about February 22, 2008. Question # 13 of the application asks: “Have you ever been convicted of, or pled nolo contendere to any offense in any state in the United States or a foreign country?” Mr. Dall did not disclose criminal history and signed his application on February 11, 2008 certifying under penalty of perjury under the laws of the State of California that the information contained in the application was true and correct.
- 3) On February 25, 2008 the Physical Therapy Board received information relative to two separate arrests and convictions concerning applicant Bryan Dall. On March 14, 2004, Mr. Dall was charged with Disorderly Conduct and Assault and, on March 3/1/2005, Mr. Dall was convicted of Disorderly Conduct for his involvement in a confrontation at a nightclub. Mr. Dall was fined \$100.00. Court records were obtained certifying the conviction.

On September 13, 2004, Mr. Dall was arrested and charged on two counts: 1) Breaking and Entering, and 2) Criminal Mischief. The circumstances of the arrest and conviction are that Mr. Dall broke into a city locked residential property, which he owned, to remove items and to clean the premises. The city did not grant permission to Mr. Dall to remove city locks on the property. Mr. Dall was convicted of Criminal

Trespass and Criminal Mischief. He was sentenced to one year of probation, community service, and fined \$250.00. Court records were obtained certifying the conviction.

4) Section 480(a) of the Business and Professions Code provides that a board may deny a license on the grounds that the applicant has done one of the following: (1) Been convicted of a crime...; (2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or (3) Done any act which if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license ... revealed in the application for such license.

5) Section 2660(d) of the Business and Professions Code provides that the board may revoke, suspend or impose probationary or provisional conditions on a license for the conviction of a crime that substantially relates to the qualifications, functions, or duties of a physical therapist.

6) Section 2660.2 of the Business and Professions Code provides that the Board may refuse a license to any applicant guilty of unprofessional conduct; or as an alternative, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct but has met all the requirements for licensure.

7) Section 2661 of the Business and Professions Code provides that the board may suspend, revoke, or decline to issue a license to a person who is convicted of a felony or any offense that substantially relates to the qualifications, functions, or duties of a physical therapist.

8) By responding "No" to question # 13 on the licensure application and then failing to disclose two convictions, the applicant knowingly made a false statement of fact required to be revealed on the application. The convictions identified in paragraph 3 above are substantially related to the practice of Physical Therapy. Cause, therefore exists for denial pursuant to Business and Professions Code section 480, subdivisions (a)(1), (a)(2), and (a)(3). Given mitigating circumstances, it is not against the public interest to issue applicant a probationary license under terms and conditions.

ORDER

IT IS HEREBY ORDERED THAT a probationary license as a physical therapist assistant will issue to applicant, Bryan Dall, subject to the following terms and conditions:

1. PROBATION: The probationary period for the terms and conditions herein noted is one (1) year.
2. OBEY ALL LAWS: Respondent shall obey all federal, state, and local laws, the statutes and regulations governing the practice of physical therapy and remain in

- full compliance with any court ordered criminal probation. This condition applies to any jurisdiction with authority over respondent, whether it is inside or outside of California. Further, respondent shall, within 5 days of any arrest, submit to the board in writing a full and detailed account of such arrest.
3. COMPLIANCE WITH ORDERS OF A COURT The Applicant shall be in compliance with any valid order of a court. Being found in contempt of any court order is a violation probation.
 4. COMPLIANCE WITH CRIMINAL PROBATION AND PAYMENT OF RESTITUTION Applicant shall not violate any terms or conditions of criminal probation and shall be in compliance with any restitution ordered, payments, or other orders.
 5. QUARTERLY REPORTS Applicant shall submit quarterly reports under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all conditions of probation.
 6. PROBATION MONITORING PROGRAM COMPLIANCE Applicant shall comply with the Board's probation monitoring program.
 7. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Applicant shall appear in person for interviews with the Board, or its designee, upon request at various intervals.
 8. NOTIFICATION OF PROBATIONER STATUS TO EMPLOYERS The Applicant shall notify all present or future employers of the reason for and the terms and conditions of the probation by providing a copy of the Initial Probationary License, Statement of Issues, Accusation and the Decision and Order, or Stipulated Settlement to the employers, and submit written employer confirmation of receipt to the board within 10 days. The notification(s) shall include the name, address and phone number of the employer, and, if different, the name, address and phone number of the work location.
 9. NOTIFICATION OF CHANGE OF NAME OR ADDRESS The Applicant shall notify the Board, in writing, of any and all of name and/or address changes within ten days.
 10. RESTRICTION OF PRACTICE – TEMPORARY SERVICES AGENCIES The Applicant shall not work for a temporary services agency or registry.
 11. PROHIBITED USE OF ALIASES Applicant shall not use aliases and shall be prohibited from using any name which is not his/her legally-recognized name or based upon a legal change of name.
 12. INTERMITTENT WORK If the Applicant works less than 192 hours as a physical therapist or a physical therapist assistant in the physical therapy profession in a period of three months, those months shall not be counted toward satisfaction of the probationary period. The Applicant is required to immediately notify the probation monitor or its designee if he/she works less than 192 hours in a three month period.
 13. TOLLING OF PROBATION The period of probation shall run only during the time the Applicant is practicing or performing physical therapy within California. If, during probation, the Applicant does not practice or perform within California,

the Applicant is required to immediately notify the probation monitor in writing of the date that Applicant is practicing or performing physical therapy out of state, and the date of return, if any. Practicing or performing physical therapy by the Applicant in California prior to notification of the Board of the Applicant's return will not be credited towards completion of probation. Any order for the payment of cost recovery shall remain in effect whether or not probation is tolled.

14. VIOLATION OF PROBATION Failure to fully comply with any component of any of the probationary terms and conditions is a violation of probation. If Applicant violates probation in any respect, the Board, after giving Applicant notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against applicant during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.
15. REQUEST TO SURRENDER LICENSE DUE TO RETIREMENT, HEALTH, OR OTHER REASONS Following the effective date of this probation, if Applicant ceases practicing or performing physical therapy due to retirement, health or other reasons or is otherwise unable to satisfy the terms and conditions of probation Applicant may request to surrender his/her license to the Board. The Board reserves the right to evaluate the Applicant's request and to exercise its discretion whether to grant the request, or to take any other actions deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, the terms and conditions of probation shall be tolled until such time as the license is no longer renewable; the Applicant makes application for the renewal of the tendered license or makes application for a new license.
16. COMPLETION OF PROBATION Applicant shall comply with all financial obligations required by this order (e.g., cost recovery, restitution, probation costs) not later than 180 calendar days prior to completion of probation unless otherwise specified in Order. Upon successful completion of probation, Applicant's license shall be fully restored.
17. PERFORMANCE OF PHYSICAL THERAPY WHILE ON PROBATION It is not contrary to the public interest for the Applicant to perform physical therapy under the probationary conditions specified in the disciplinary order. Accordingly, it is not the intent of the Board that this order, the fact that the Applicant has been disciplined or that the Applicant is on probation, shall be used as the sole basis for any third party payor to remove Applicant from any list of approved providers.
18. PROBATION MONITORING COSTS Applicant shall reimburse all costs incurred by the Board for probation monitoring during the entire period of probation. Applicant will be billed at least quarterly. Such costs shall be made payable to the Physical Therapy Board of California and sent directly to the Physical Therapy Board of California. Failure to make ordered reimbursement within 60 days of the billing shall constitute a violation of the probation order.

19. RESTRICTION OF PRACTICE – HOME CARE - Respondent shall not provide physical therapy services in a patient's home.
20. RESTRICTION OF PRACTICE - PROHIBITION OF SELF-EMPLOYMENT OR OWNERSHIP - Respondent shall not be the sole proprietor or partner in the ownership of any business that offers physical therapy services. Respondent shall not be a Board member or an officer or have a majority interest in any corporation that offers or provides physical therapy services.
21. RESTRICTION OF PRACTICE – PROHIBITION OF DIRECT BILLING OF THIRD-PARTY PAYERS- Respondent shall not have final approval over any physical therapy billings submitted to any third-party payers in any employment.
22. RESTRICTION OF PRACTICE – PRESENCE OF A PHYSICAL THERAPIST REQUIRED- Respondent shall be prohibited from working a graveyard shift or any shift in which there is not a licensed physical therapist present.

THIS DECISION SHALL BECOME EFFECTIVE ON May 1, 2008_____.

IT IS SO ORDERED ON May 1, 2008_____.

Original Signed By:
STEVEN K. HARTZELL, Executive Officer
Physical Therapy Board of California